

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA

-v-

IVARS OZOLS,

Defendant.

16-CR-692-7 (JMF)

ORDER

JESSE M. FURMAN, United States District Judge:

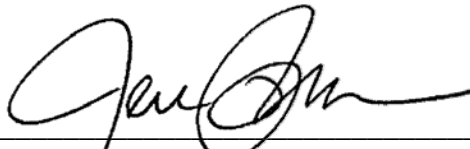
On May 4, 2020, the Court received a letter from Defendant seeking compassionate release under 18 U.S.C. § 3582(c)(1)(A). *See* ECF No. 470. The Court appointed counsel from the Criminal Justice Act Panel to represent Defendant in connection with his request for relief, ECF No. 475, and counsel filed a memorandum of law, ECF No. 477. In it, counsel notes that Defendant filed his request with officials at his prison facility on May 3, 2020, and thus his statutory 30-day waiting period will end on June 2, 2020. *See* ECF No. 277, at 11, 17 n.22; 18 U.S.C. § 3582(c)(1)(A) (providing that the court may grant a motion for compassionate release “upon motion of the defendant after the defendant has fully exhausted all administrative rights to appeal a failure of the Bureau of Prisons to bring a motion on the defendant’s behalf or the lapse of 30 days from the receipt of such a request by the warden of the defendant’s facility”).

The Court has previously held that the exhaustion requirement under Section 3582(c)(1)(A) is mandated by statute and cannot be ignored by the Court. *See United States v. Roberts*, — F. Supp. 3d. —, No. 18-CR-528-5 (JMF), 2020 WL 1700032, at *2-3 (S.D.N.Y. Apr. 8, 2020). Appointed counsel notes that, following the Court’s decision in *Roberts*, several judges in this District reached the opposite conclusion and held that the exhaustion requirement is waivable by the Court in certain circumstances. *See* ECF No. 477, at 14-16. Upon review of these cases, the Court adheres to its decision in *Roberts*.

Accordingly, the Court will defer any decision on the merits of Defendant’s request until June 2, 2020. The parties shall immediately notify the Court if there are any material changes in Defendant’s circumstances before then.

SO ORDERED.

Dated: May 22, 2020
New York, New York


JESSE M. FURMAN
United States District Judge